

August 29, 2022

VIA ECF

Hon. Michael A. Shipp, U.S.D.J.  
United States District Court for the District of New Jersey  
Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street  
Trenton, NJ 08608

**Re: *GMO Trust, et al. v. Bausch Health Companies Inc.***  
**Civil Action No. 3:22-cv-01823**

Dear Judge Shipp:

We write to briefly respond to and correct some highly misleading statements in Defendant Bausch Health's August 25, 2022 letter to Your Honor (ECF No. 13).

*First*, Bausch Health asserts that Plaintiffs need not worry about the collectability of their judgments because Bausch Health has "billions of dollars in equity value." Bausch Health's current "equity value" based on the total trading value of its outstanding shares is less than \$2 billion. The damages on the claims advanced by Plaintiffs are more than \$3 billion and the damages of the entire opt-out group are more than \$4 billion. Accordingly, the situation could not be more worrisome.

To make matters worse, the value of Bausch Health *includes* its controlling share of Bausch + Lomb, which Bausch Health is proposing to dividend to existing shareholders and put out of the reach of potential judgment creditors. Further, the company has more than \$20 billion in debt, some of which is trading around 40 cents on the dollar. The loss of the Xifaxan patent litigation has rendered Bausch Health's already precarious financial situation even more tenuous. And, as noted in Plaintiffs' August 23, 2022 letter to Your Honor (ECF No. 12), last week Bausch Health announced that it has retained as advisers two firms specializing in bankruptcy restructurings. Thus, far from being baseless, Plaintiffs' assertions that the spin-off impedes their ability to enforce a judgment and that the Xifaxan patent loss has pushed Bausch Health into a deepening insolvency are based on indisputable facts. Plaintiffs' state law fraudulent conveyance action seeks to take advantage of a prophylactic state law meant to aid potential judgment creditors. It must be allowed to proceed in order to protect Plaintiffs' ability to collect on any judgments entered by this Court with respect to their federal securities fraud claims.

*Second*, Bausch Health contends that Plaintiffs' August 23 letter was a "tactical . . . effort to use state court litigation to bolster Plaintiffs' settlement leverage." Bausch Health knows that statement is false because Plaintiffs are not in settlement discussions with Bausch Health and fully expect that trial will be required to resolve their federal securities fraud claims. The only way to resolve Plaintiffs' claims is for the Court to order a speedy trial and expeditiously remand the fraudulent conveyance claim to state court so that any judgments ultimately rendered can be enforced.

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Respectfully submitted,

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